

Department of Justice, dealing with offences or penalties (including existing offences or penalties), given the responsibilities of the Department of Justice for the justice system generally. The referral of such subordinate legislation would be required, irrespective of whether the parent (primary) legislation containing the delegated powers had previously been agreed by the Executive. In the case of affirmative and confirmatory resolution statutory rules to which paragraph 2.4 of the Ministerial Code does **not** apply it will be sufficient for the Minister responsible to issue a letter which informs Ministerial Colleagues of their intention to bring forward the statutory rule involved, but there is no need for the letter to seek comments from other Ministers before proceeding. The purpose of the letter is simply to give advance notice to other Ministers of the forthcoming Assembly business so that they are not taken unawares when it is scheduled for debate or query why it has not been referred beforehand for consideration by the Executive.

7.2.25 Executive approval for public consultations is only required where the resulting statutory rules will require subsequent Executive approval under paragraph 2.4 of the Ministerial Code.

7.3 Post-drafting stage

Checking

7.3.1 When drafted, a statutory rule should be read and re-read, and preferably should be examined by someone other than the person who drafted it. Completed drafts must be submitted in each case to the Departmental Solicitor's Office (see section 7.6). Scrutiny by the legal adviser is mainly for the purpose of ensuring that the making of the rule is within the powers of the Department concerned, that it is in the proper form and that it contains nothing likely to be criticised by the relevant Departmental Committee or the Examiner of Statutory Rules under Assembly Standing Order 41(6) (see sections 7.7. and 7.8).

7.3.2 Otherwise, responsibility for the preparation and making of a rule and, above all, the duty of ensuring that the administrative details

for which the rule provides are workable and of complying with the procedural steps to be taken in accordance with this handbook rests with the Department directly concerned.

7.4 Printing and publication stage

Correcting errors in original rule

7.4.1 The Office of Public Sector Information (OPSI) receives advice from a variety of sources about errors contained within Statutory Rules of Northern Ireland (SRs). These may be received directly from the Northern Ireland Statutory Publications Office (SPO), Legal Publishers, Northern Ireland departments or users of the SR, including members of the public. Departments should contact Statutory Publications Office in the first instance where an error is identified.

7.4.2 With the introduction of the SR template for the drafting and production of SRs the scope for errors to be introduced into the printed versions of SRs will be minimised. Errors will, nevertheless, arise and this paper sets out the procedures for dealing with these, the arrangements for ensuring that any necessary correction slips are produced and incorporated as appropriate in the Annual Editions of Statutory Rules, in future reprints of the Government Printer copies, in the official internet version as published on the OPSI web site the Statute Law Database.

7.4.3 It should be noted that once an SR has been sent to TSO for printing that TSO cannot accept instructions from departments as to the need to make corrections. All corrections can only be processed in accordance with the procedures set out in this section of the Handbook.

The need to correct errors

7.4.4 All SRs should be printed and published on the internet as an accurate reflection of the SR as it was made by the Minister (or other Authority). The SR which is sent to the SPO for registration and numbering and subsequently to TSO for printing must be certified by the department as a true copy of that made. Any errors which are found within the texts as printed or published on the internet should be corrected as soon as possible though the nature of the error will indicate the method to be used for its correction. Where there are subsequent references to an SR being printed this should also include the version published on the internet.

Types of apparent error

7.4.5 The types of error can broadly be categorised under four headings:

Errors in the wording of the SR

This category will also include those errors which it appears from the context of an amendment being made to a previous SR that words may have been omitted.

This kind of mistake can only be corrected if the text printed differs from that which was signed by the Minister etc or, if it does not, in circumstances where the required correction does not affect the interpretation of the SR. Such corrections would be made by the issue of a correction slip. Otherwise it will require amendment by the issue of a new correcting Statutory Rule.

Spelling errors in the text

Such errors may be corrected and may be incorporated in:

- the Annual Edition of Statutory Rules,

- future reprints of the Government Printer copies; and
- the internet version.

Unless the nature of the error impacts upon the interpretation of the SR, the issue of a correction slip would normally not be necessary.

Errors in citations, headings, footnotes, in the preamble, and numbering of paragraphs

This category includes the situation where a new paragraph/sub paragraph or rule has been inserted into a previous SR and there is an anomaly in the numbering of the inserted material. These errors would normally be corrected by the issue of a Correction Slip.

Errors in an Explanatory Note

The Explanatory Note is not part of the SR and therefore errors in the Explanatory Note do not impact on the legal interpretation of the SR. The Explanatory Note will, however, often be used by an individual who has no legal training, as their means of understanding the effects of the SR. Such errors should therefore only be corrected if the nature of the error might impact on an individual's understanding of the SR.

These errors would normally be corrected by the issue of a Correction Slip.

Procedures for handling errors

7.4.6 The following procedures will operate:

- Any apparent errors advised to OPSI or TSO will be advised to SPO who will check whether the apparent error is different from that included within the certified copy of the SR.
- SPO will log and advise the appropriate department of any apparent errors
- The department will advise SPO as to whether there is a mistake that needs correction (in relation to all apparent errors advised directly or via SPO), providing SPO with a marked up copy of the printed SR with the corrections indicated in red ink and, where the correction is to be made by issue of a correction slip the draft text of the correction slip. The final decision as to whether issue of a correction slip is justified shall rest with SPO.
- Where it is agreed that issue of a correction slip is necessary then SPO will advise OPSI and TSO and provide the text for printing. TSO will subsequently confirm that the correction slip has been printed, copies issued to all known recipients of the original SR and incorporated in remaining stocks.
- Where a correction slip is not required then SPO will incorporate the correction in the Statute Law Database, the Annual Edition of Statutory Rules and advise OPSI who will ensure that the internet version is corrected and legal publishers advised.

Issue of a corrected reprint or a replacement SR

7.4.7 Where the nature of the error(s) in an SR is such that it requires the issue of a corrected reprint of the SR or the making of a replacement SR then in either case these should be printed with an italicised headnote. This should state that it replaces the [previous version of the SR/original SR]

and that it is being issued free of charge to all known recipients of the original SR. The headnote is deleted from the SR before it is included in the Annual Edition.

Responsibility for the costs of correcting an SR

7.4.8 It should be noted that the costs of correcting the error in the printed edition or the internet version of the SR or of producing a replacement SR, will fall to the organisation that is responsible for the error. If this is TSO then TSO will meet all of the costs themselves, otherwise TSO will invoice the department for all costs incurred by them in making the corrections including the costs of correcting the internet version on behalf of OPSI.

7.5 Role of the Office of the First Minister and Deputy First Minister

7.5.1 Legislative Programme Secretariat in the Office of the First Minister and Deputy First Minister (OFMDFM), manages, co-ordinates and monitors progress on Northern Ireland legislation. In regard to subordinate legislation, its main role is to provide guidance and ensure relevant training on procedures is available to Northern Ireland Departments. Advice and guidance is also provided in relation to the drafting and necessity of Executive papers.

7.5.2 Legislative Programme Secretariat provides input to Assembly Section in relation to the scheduling of Assembly debates on subordinate legislation. To ensure that this input is based on accurate and up-to-date information Departments should keep Legislative Programme Secretariat informed of the following:

- Date of Executive approval (if applicable)
- Date of Committee approval
- Examiner of Statutory Rules approval
- Date motion tabled

Statutory Publications Office

7.5.3 The Statutory Publications Office (SPO) in OFMDFM is required by the Statutory Rules (Northern Ireland) Order 1979 –

- to register statutory rules and number them consecutively in each year;
- to publish an annual volume of statutory rules, including a list of rules made during the year.

SPO may also prepare and publish separate indexes of the annual volumes of statutory rules.

7.5.4 Northern Ireland is now included in the UK Legislation.gov.uk Database and up-dated Northern Ireland legislation and its effects are available at www.legislation.gov.uk. Primary legislation is up-dated to reflect subsequent amendments but subordinate legislation is simply shown in its original form..

Office of the Legislative Counsel

7.5.5 The role of the Office of the Legislative Counsel (OLC) in OFMDFM is to draft primary legislation and maintain the integrity of the Northern Ireland statute book. In relation to subordinate legislation, OLC sees all statutory rules which amend primary legislation (see paragraph 7.6.3).

7.6 Role of the legal adviser

7.6.1 The responsibilities of the legal adviser, which are normally undertaken by the Departmental Solicitor's Office (DSO), Department of Finance and Personnel, are –

- to **advise** Departments; and

- to **ensure** that a rule is within a Department's power and in the proper form;

The DSO may also check such points as consistency, grammar, spelling, procedures and layout although primary responsibility for these rests with the Department.

7.6.2 DSO requires from Departments –

- sufficient time to examine drafts;
- two copies of the draft rule;
- clear instructions, including –
 - general background such as the purpose and description of a rule;
 - specific questions or points of doubt;
 - copies of Northern Ireland and Great Britain subordinate legislation referred to in the draft rule.

7.6.3 Legal advisers should consult the Office of the Legislative Counsel where a draft rule amends or repeals primary legislation.

7.6.4 Where a subordinate rule is in standard form and unlikely to raise any significant legal concerns, scrutiny by Departmental Solicitor's Office is not required. Departments should (with the prior agreement of Departmental Solicitor's Office) specify the classes of rules falling within this category.

7.7 Role of Assembly Committees

Assembly Committees

7.7.1 Strand One of the Belfast Agreement provides for Departmental Committees to have a scrutiny, policy development and consultation role with respect to the Department with which it is associated. It follows that